

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte MICHAEL A. HELGESON

Application No. 09/311,092

ORDER RETURNING TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on March 16, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith returned to the examiner. The matters requiring attention prior to docketing are identified below.

On February 21, 2003, appellant filed a Notice of Appeal in which "[a]pplicants [sic] hereby appeal the final rejection of claims 1-34." The "STATUS OF CLAIMS" section located on page 4 of the Appeal Brief filed April 21, 2003 (Paper No. 16) stated that "[c]laims 1-34 remain pending in the application." However, the Final Rejection (Paper No. 10 mailed

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September 24, 2002) and the Examiner's Answer (Paper No. 17 mailed July 14, 2003) list the following grounds of rejection:

1. Claims 1-2, 10-12 and 13-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Jacobsen et al. (US #6,198,394);
2. Claims 1, 3-9, 23-29, 31-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Reis et al. (US# 5,973,613);
3. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen et al. (US# 6,198,394); and
4. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reis et al. in further view of Jacobson et al. (US# 6,198,394).

It should be noted that neither the Final Rejection nor the Examiner's Answer include claims 19 and 20 in a ground of rejection, although these claims are discussed as part of rejection #1 above. Clarification regarding the status of claims 19 and 20 is required.

In addition, an amendment after final was filed by appellant on November 18, 2002 (Paper No. 12). The Advisory Action mailed December 17, 2002 (Paper No. 13) indicated that such amendment would be entered. Both the Appeal Brief filed April 21, 2003 (Paper No. 16) and the Examiner's Answer mailed July 14, 2003 (Paper No. 17) indicate that this amendment has

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been entered. A review of the record indicates the amendment was not physically entered.

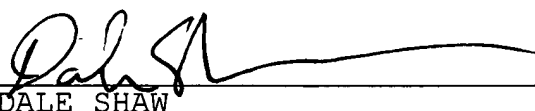
Accordingly, it is

ORDERED that the application is returned to the

Examiner:

1. for clarification regarding the status of claims 19 and 20;
2. for physical entry of the amendment filed November 18, 2002 (Paper No. 12);
3. for written notification to appellant regarding the action taken; and
4. for such further action as may be appropriate.

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